

IN THE HIGH COURT OF UTTARANCHAL AT
NAINITAL
WRIT PETITION NO. 2148 OF 2001
(Old No. 12080 of 1983)

Smt. Ram Kaur, wife of Sri Jeet Singh, resident of Village Jawalpur, tehsil Kashipur, district Nainital. Petitioner.

Versus

1. The State of U.P., through the Collector Nainital.
2. The District Judge, Nainital.
3. The Prescribed Authority, Kashipur, district Nainital.

.....

Respondents

Hon'ble Rajesh Tandon, J.

The writ petition has been transferred from Allahabad High Court. None appears for the parties.

Heard the State of U.P.

By the impugned order, the appeal filed under Section 9 of the U.P. Public Premises (Eviction of Unauthorised Occupants) Act No. 22 of 1972 has been rejected.

Briefly stated, the proceedings under Section 9 of the U.P. Public Premises (Eviction of Unauthorised Occupants) Act. 22 of 1972 were initiated. The prescribed Authority has passed the eviction order dated 17th June, 1982 against the petitioner.

Aggrieved, by the said order dated 17.06.1982, the petitioner preferred an appeal under Section 9 of the Act before the District Judge, Nainital. Along with the appeal, the petitioner has moved an application under Section 5 of the Indian Limitation Act for condonation of delay.

The District Judge, Nainital by his judgment dated 01.07.1983 dismissed the appeal on the ground that it was barred by time.

In view of the law laid down by the Apex Court in (2001) 8 SCC 151, M.S. Grewal vs. Deep Chand Sood, the Apex Court has held that the technicalities of law should not come in the way of hearing the case on merits. The observations of the Apex Court is quoted below:-

“Law Courts will lose their efficacy if they cannot possibly respond to the need of the society- technicalities there might be many but the justice-oriented approach ought not to be thwarted on the basis of such technicality since technicality cannot and ought not to outweigh the course of justice.”

In view of the above, the matter is remanded back to the Appellate authority for deciding afresh on merits. In case after issuing the notice, the parties are not turned up. The order passed by the Appellate Authority on July 1, 1983 shall remain final.

Consequently, the writ petition is allowed and the case is sent back to the appellate authority for deciding in accordance with law.

Dated:24.11.2004
P.S.R.

(RAJESH TANDON, J.)